

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DANIEL J. GOODSON, III, <i>et al</i> ,)	
)	
Plaintiffs,)	
)	Civil Action No. 08-44
v.)	
)	
LAWRENCE O. MAGGI, <i>et al.</i> ,)	Judge Gary L. Lancaster
)	Magistrate Judge Lisa Pupo Lenihan
Defendants.)	Re: Doc. No. 245

ORDER

Presently before the Court is the Motion to Strike Plaintiff's Supplemental Complaint filed by Defendants Washington County CYS director Jeffrey Felton, Washington County CYS caseworkers Patricia Maxon, Hayley Foster, Patricia Berdine, and Nancy Gray, and Washington County Correctional Facility Warden, Joseph Pelzer (Doc. No. 245).

On March 1, 2010, the Court issued a Report and Recommendation (Doc. No. 228) granting in part and denying in part the moving Defendants' Motion to Dismiss. Therein, the Court granted the motions to dismiss of Defendants Washington County Commissioners Maggi, Irely, and Burns, Washington County Controller Namie, Washington County District Attorneys Pettit and Lucas, Washington County Sheriff Romano, Washington County Prothonotary Matheny, and Washington County Clerk of Courts Gibbs. The Court further granted the Motion to Dismiss of Washington County CYS defendants Felton, Maxon, Foster, Berdine and Gray as to the claims against them for declaratory and injunctive relief pursuant to *Younger* abstention, and stayed all claims against them for monetary relief until the conclusion of the pending state court proceedings. Finally, the Court granted the Motion to Dismiss filed by the Washington County Correctional Facility Warden Pelzer except as to certain claims set forth in the Report

and Recommendation which were also stayed until the conclusion of the pending state court proceedings. (Doc. No. 228) The Court recommended that the case be administratively closed until that time. (Doc. No. 228)¹ On March 29, 2010, United States District Court Judge Gary L. Lancaster adopted the Report and Recommendation (Doc. No. 228) and administratively closed the above captioned case. (Doc. No. 243)

Federal Rule of Civil Procedure 15(a)(1)&(2) provides that a party may amend his pleading once as a matter of course within 21 days after serving it, or 21 days after service of a responsive pleading or motion. “In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2). Here, the Plaintiff did not seek the opposing parties’ written consent or leave of court. Moreover, the Court emphasizes that the case has been administratively closed. However, because the court has ruled that Plaintiff failed to state a claim against Defendant Washington County Correctional Facility Warden Joseph Pelzer, and because the Third Circuit has stated that prior to dismissing an action based on a motion to dismiss in a civil rights complaint a plaintiff must be granted leave to amend, Plaintiff may file a third amended complaint upon the reopening of the above-captioned case. That third amended complaint is limited to only those claims listed in the Report and Recommendation concerning Defendant Washington County Correctional Facility Warden Joseph Pelzer (Doc. No. 228, pp. 38-46). Should Plaintiff wish to file an Amended Complaint on any other issues, he must first obtain leave of court.

¹Pursuant to other motions to dismiss filed by various defendants, Plaintiff’s amended complaint was dismissed with prejudice as to Defendants Mascara, Driscoll, Washington County 27th Judicial District, Westmoreland County 10th Judicial District, Westmoreland County, Light, Bayla, Ceraso, Gesalman, the Wilcoxes, Hull, and Marcus. (Doc. Nos. 183, 219, 235, 236, 242)

AND NOW, on this 26th day of April, 2010, it is hereby **ORDERED** that the Defendants' Motion to Strike Plaintiff's Supplemental Complaint (Doc. No. 245) is **GRANTED**.

s/ Lisa Pupo Lenihan
Judge Lisa Pupo Lenihan
United States Magistrate Judge

cc: All counsel of record
Via electronic mail

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